

Patent
6,705,794

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

FUSION SPECIALTIES, INC.,

Plaintiff,

v.

CHINA NETWORK LEADER, INC., a California corporation, d/b/a CNL Mannequins

Defendant.

COMPLAINT AND JURY DEMAND

Plaintiff Fusion Specialties, Inc. ("Fusion"), for its Complaint against Defendant China Network Leader, Inc., d/b/a CNL Mannequins ("CNL"), states as follows:

THE PARTIES, JURISDICTION AND VENUE

1. Fusion is a corporation existing under the laws of the state of Colorado, with its principal place of business in Broomfield, Colorado.
2. Upon information and belief, CNL is a corporation existing under the laws of the state of California with a principal place of business in Cerritos, California, that has done or is doing business as CNL Mannequins.
3. CNL is doing or has done business in this judicial district.
4. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 and 281. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1338(a) and 2201.

5. Venue with respect to CNL is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).

FIRST CLAIM FOR RELIEF – DAMAGES FOR PATENT INFRINGEMENT

6. Fusion is the owner of all right, title, and interest in and to United States Letters Patent No. 6,705,794 (the “‘794 Patent”), duly and lawfully issued to it on March 16, 2004. The ‘794 Patent, titled “Display Form Having Magnetically Attachable Parts,” is attached as Exhibit 1.

7. CNL is infringing, contributing to the infringement and/or inducing the infringement of Claim 37 of the ‘794 Patent.

8. In particular, CNL is making, importing into the United States or offering to sell mannequins that infringe at least Claim 37 of the ‘794 Patent.

9. CNL has engaged in the above-mentioned activities within this judicial district and elsewhere within the United States, without the consent of Fusion and will continue to do so unless enjoined by this Court.

10. CNL’s infringement of Claim 37 of the ‘794 Patent has been willful and deliberate based on the following facts:

a. On January 2, 2008, Fusion filed an earlier action against CNL in this Court (08-CV-00001-BNB-CBS), alleging that CNL, and its founder and owner, James Chiao, were infringing, contributing to the infringement and/or inducing the infringement of one or more claims of various patents, including the ‘794 Patent (hereinafter the “Prior Action”).

b. In the Prior Action, Fusion alleged that CNL’s infringement of the ‘794 Patent had been willful and deliberate and specifically cited to a course of conduct dating back to 2006 in which CNL, despite acknowledging receipt of a letter notifying it of

Fusion's '794 Patent, had nonetheless obtained and copied a Fusion mannequin sold to one of Fusion's customers and had begun marketing infringing products.

c. On or about April 10, 2008, Fusion, CNL and Chiao, following a resolution of Fusion's claims in the Prior Action, entered into a Settlement Agreement and a nonexclusive License Agreement and thereafter dismissed the Prior Action.

d. Particularly in view of allegations contained in and the resolution of the Prior Action, CNL has long had notice and knowledge of the scope of Fusion's Patents. Nonetheless, CNL is once again willfully infringing upon at least Claim 37 of the '794 Patent.

11. By reason of the foregoing, Fusion has been damaged in an amount to be determined at trial.

SECOND CLAIM FOR RELIEF – INJUNCTIVE RELIEF FOR PATENT INFRINGEMENT

12. Fusion reincorporates and realleges each and every allegation contained in ¶¶1-11 of its First Claim for Relief.

13. Fusion has no plain, speedy, and adequate remedy at law to redress the damages caused by CNL in the future as a result of CNL's making, selling or distributing products that infringe on the '794 Patent.

14. Pursuant to 35 U.S.C. § 283, Fusion is entitled to a preliminary and permanent injunction enjoining CNL, and any person who is in active concert and participation with CNL, from making, selling or distributing products that infringe on the '794 Patent.

WHEREFORE, Plaintiff Fusion Specialties, Inc., prays for relief against Defendant China Network Leader, Inc., d/b/a CNL Mannequins, as follows:

- (a) an injunction preliminarily and permanently enjoining Defendant, and any person who is in active concert and participation with Defendant, from making, using, offering for sale, selling or importing into the United States products that infringe or induce or contribute to the infringement of the claims of the '794 Patent, including Claim 37 of the '794 Patent;
- (b) a judgment that the Defendant has infringed, and/or has induced others to infringe or contributed to infringement of at least Claim 37 of the '794 Patent;
- (c) an award of damages for Defendant's infringement of at least Claim 37 of the '794 Patent, together with interest, costs and disbursements as fixed by this Court pursuant to 35 U.S.C. § 284;
- (d) trebled damages pursuant to 35 U.S.C. § 284 for Defendant's willful infringement of the '794 Patent;
- (e) a determination that this is an exceptional case within the meaning of 35 U.S.C. § 285 and an assessment against Defendant of Plaintiff's reasonable attorneys' fees; and
- (f) such other and further relief as the Court deems just and proper.

Plaintiff demands a trial to a jury on all issues so triable.

Dated: January 3, 2012

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